IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 1842-M of 2007

DATE OF DECISION : 12.03.2007

Amit

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Namit Sharma, Advocate,
for the petitioner.

Mr. S.S. Mor, Senior DAG, Haryana.

Petitioner Amit, who was juvenile at the time of commission of the alleged offence, has filed this petition under Section 439 of the Code of Criminal Procedure read with Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as `the Act'), for the grant of regular bail in case FIR No. 261 dated 12.7.2005 under Sections 302/323/34 IPC and Section 25 of the Arms Act, registered at Police Station Chandni Bagh, Panipat.

2. I have heard counsel for the parties and gone through the FIR as well as the order dated 20.1.2006, passed by Additional Sessions Judge, Sonepat, whereby bail application of the petitioner has been dismissed.

3. As per the prosecution version, on the date of alleged occurrence, a *Satsang* was to be performed in the house of the complainant and when he was cleaning the space in the street in front of his house, Shankar (father of the petitioner) started abusing the complainant and his children under the influence of liquor. When the complainant and his children protested, Kala son of Shankar gave a blow with iron rod on the head of the complainant. After getting his treatment, the complainant

reported the matter to the police. Thereafter, the complainant distributed *Parsad* after completion of the *Satsang* and when his mother-in-law and brother-in-law Vipin were ready to go and were passing in front of the house of Shankar, Kala gave a hammer blow from behind on the head of Vipin. It is further alleged that petitioner Amit gave sword blow on the left side of eye of Vipin. The other co-accused, namely Sumitra and Meenakshi wife and daughter of Shankar inflicted injuries with iron strip and hand pump handle on left thumb and left side ribs of the complainant. It is alleged that due to hammer blow, Vipin had fallen down and subsequently, he died. As per the prosecution version, the main accused is Kala co-accused, who gave hammer blow on the head of the deceased.

4. Counsel for the petitioner contends that at the time of the alleged commission, the petitioner was a juvenile and he has been so declared vide order dated 10.1.2006, passed by Juvenile Justice Board, Sonipat. He further contends that the learned Additional Sessions Judge has declined to grant bail to the petitioner, while wrongly coming to the conclusion that release of the petitioner will defeat the ends of justice and he has committed a serious crime. Counsel contends that while considering the application of bail of a juvenile, nature of the offence alleged to have been committed by him is not to be seen and under Section 12 of the Act, granting bail to a juvenile is mandatory and the same can be denied only if it appears that his release is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. Counsel further contends that the petitioner is in custody since 12.7.2005 and out of 28 prosecution witnesses, only 8 have been examined and trial is not likely to conclude soon.

5. The petitioner in this case is a first offender. He or his family has no criminal back ground. It is well settled that the nature of offence alleged to have been committed by a juvenile is not to be seen and granting of bail to a juvenile is mandatory and bail can only be declined if there are

reasonable grounds to believe that his release is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice (see ***Gopinath Ghosh*** v. ***The State of West Bengal (SC), 1984 (1) Recent Criminal Reports 444)***.

6. In view of the above, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner and he is, accordingly, ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of the trial court.

March 12, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**